

April 18, 2013

VIA ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket No. 11-42 Lifeline and Link Up Reform and Modernization
WC Docket No. 03-109 Lifeline and Link Up
NOTICE OF EX PARTE PRESENTATION

Dear Ms. Dortch:

On April 17, 2013, Javier Rosado, Senior Officer – Alternative Business Units, TracFone Wireless, Inc., and undersigned counsel met with Commissioner Mignon Clyburn, Angela Kronenberg, Wireline Legal Advisor to Commissioner Clyburn, and with Rebekah Goodheart, Acting Legal Advisor to Commissioner Clyburn. During the meeting we discussed the importance of maintaining a strong and sufficient Lifeline program, including available of wireless Lifeline services. We described TracFone's SafeLink Wireless[®] Lifeline program, how the program has grown and served low-income households since its inception in 2008, and the steps which TracFone has implemented to detect and prevent fraudulent enrollment and duplicative enrollment. We also provided a description of TracFone's Lifeline customers – who they are and how they use the service – based on a recently-completed customer survey.

We discussed several additional measures which can be taken to further prevent waste, fraud and abuse of Universal Service Fund resources. Those recommended measures include:

- Retention by Lifeline providers of applicants' program-based eligibility documentation as TracFone had proposed in a May 2012 petition;
- Allowing access to other federal government departments' databases of persons enrolled in qualifying programs and allowing access to state databases while the Commission and the industry complete the development and implementation of the National Lifeline Accountability Database;
- Prohibiting in-person distribution of handsets – a process which has generated many negative news stories and besmirched the Lifeline provider industry;
- Enhanced enforcement of existing rules at the federal and state levels

In addition, we discussed certain rule changes which should not be implemented including proposals for mandatory minimum rates for Lifeline service. Available evidence demonstrates that there is no correlation between mandatory charges (what proponents of such charges call "skin in the game") and preventing waste, fraud, and abuse.

During the meeting, a presentation summary was provided to each attendee. A copy of that summary is enclosed herewith.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically. If there are questions, please communicate directly with undersigned counsel for TracFone.

Sincerely,



Mitchell F. Brecher

cc: Hon. Mignon Clyburn
Ms. Angela Kronenberg
Ms. Rebekah Goodheart
Ms. Julie Veach
Ms. Kimberly Scardino
Mr. Jonathan Lechter

Enclosure

Enclosure

**Meeting with Commissioner
Mignon Clyburn
April 17, 2013**

**The Importance of Maintaining a
Strong and Sufficient
Lifeline Program, Including Available
Wireless Lifeline Services**



TracFone Wireless, Inc. – Pioneered Wireless Lifeline, Specifically, the No Charge Model

- a. First company to seek forbearance from 47 U.S.C. § 214(e)(2) (requires ETCs to provide USF-supported services, at least in part, over their own facilities). FCC under Chairman Martin granted forbearance in 2005 after concluding that all 3 prongs of the Section 10 forbearance standard had been met.
- b. In 2008, the FCC, also under Chairman Martin, designated TracFone as an ETC in 10 states plus the District of Columbia. Since then, it has been designated as an ETC in 43 states and provides Lifeline service in 39 states.
- c. Currently serves more than 3.7 million Lifeline customers.
- d. SafeLink Wireless® - TracFone's Lifeline brand:
 - 250 minutes per month;
 - Can be used for local, long distance and roaming calls;
 - Text messaging allowed;
 - Caller ID, Call waiting, Voice mail included;
 - All Lifeline customers receive a handset (paid for by TracFone, not by the USF).

Concept of SafeLink Wireless® - Making available a full-function wireless service to those qualified low-income households who would prefer a wireless Lifeline service to a traditional subsidized wireline service. (The service may not be for everybody, but consumers – including low-income consumers – should have a choice of providers and a choice of service options.)

TracFone has introduced important fraud prevention measures, including some later adopted by the Commission.

- Require customer identification, including name, address, date of birth and Social Security No. (last 4 digits);
- 60 day non-usage de-enrollment;
- Annual verification of continuing eligibility of all customers, not just a “statistically-valid sample”;
- Never sought and actively opposed USF funding for Link Up;
- Has never used in-person handset distribution.

TracFone's SafeLink Wireless® Customers

- 70% use the service to pursue employment and remain employed;
- 95% say the service enables them to remain in contact with their families and friends as well as employers;
- 43% are older than 56/20% are older than 66;
- 26% are employed; only 13% are employed full time;
- 33% have 3 or more dependent children;
- 10% are veterans of the U.S. armed services.

Wireless Lifeline is Working and is a Program worth Preserving

- a. ETCs like TracFone and others have increased Lifeline participation percentages above the abysmally low (nationally around 30%; for many states, much lower) percentages in the past.
- b. Though program is still underutilized in that many qualified low-income households are not receiving benefits, that situation is improving.
- c. For the first time, ETCs have actually marketed Lifeline service to low-income communities.

Waste, Fraud and Abuse

- a. While the potential for fraud remains, much has been done to detect and prevent waste, fraud and abuse.
- b. FCC rules (which were implemented between April and June 2012) already have had a profound effect.
 - \$214 million savings during 2012 (a partial year for the new rules);
 - \$400 million in savings projected by year-end 2013;
 - \$2 billion in savings expected by year-end 2014.
- c. Further steps can be taken. Some suggestions:
 - Document retention of program-based eligibility documents (a “no brainer”). The FCC’s rules only require ETCs to have “viewed” documentation of Lifeline applicants’ program-based eligibility. Absent a requirement that they retain copies of the documents provided and make them available for audit by USAC, the FCC or state commissions, this is a “toothless” and unenforceable requirement. In May 2012, TracFone petitioned the FCC to require document retention. All commenters favored the proposal, but no action has been taken.

Waste, Fraud and Abuse (continued)

- Databases – While the FCC works to implement a national Lifeline Accountability Database, short-term solutions can and should be embraced:
 - Other federal databases such as the PARIS database administered by the Dept. of Agriculture and HHS. We have been working with those departments but it would be helpful for the FCC to get more involved in encouraging them to allow the PARIS database to be used.
 - State databases – Some states have their own databases of enrolled applicants in Lifeline qualifying programs which are administered at the state level (*e.g.*, Medicaid, SNAP, LIHEAP). TracFone has worked with the states to obtain access to those databases (subject to appropriate consumer privacy protections). To date, it has done so for 8 states and is actively working on about 20 others.

Waste, Fraud and Abuse (continued)

- Prohibit in-person handset distribution – Some ETCs utilize third party agents to hand out cell phones on street corners. This is not to say that all the ETCs who use that method do not properly certify their applicants' Lifeline eligibility. However, this practice creates a negative perception of the program:
 - » Virtually every news report criticizing the program either describes or shows video clips of cell phones being handed out on street corners. Those news stories besmirch all ETC and their regulators.
 - » TracFone has enrolled millions of qualified low income households without ever handing out a handset in person.
 - » The practice is not necessary, generates criticism, and should be prohibited.
- Enhanced Enforcement – Recently, the FCC Enforcement Bureau entered into a consent decree with 2 Lifeline providers in Oklahoma after an investigation found misconduct. Such enforcement efforts should be continued by the FCC and by state commissions.
- Once rules have been established, those rules should be enforced and ETCs who violate those rules should be investigated and when violations have been found, they should be sanctioned.

Pitfalls – Changes that should not be made

- a. Politically-motivated efforts to destroy the program or to eliminate wireless Lifeline should be resisted and rejected.
 - Limiting Lifeline to subsidizing one technology – wireline telephony, would violate the competitive neutrality principles embedded in the 1996 Telecommunications Act. Congress determined that wireless and wireline services should compete with each other and neither should be accorded regulatory favoritism.
 - Prohibiting wireless Lifeline options would also ignore the reality that consumers in large numbers are choosing wireless options where they have those options.
 - Rescission of the FCC's 2005 forbearance determination to allow MVNOs to provide Lifeline would not only disserve the public interest, it would be illegal. Forbearance is not discretionary. Section 10 of the Act requires that once the 3-pronged forbearance standard has been met, the FCC **shall** forbear from application or enforcement of the provisions of the Act and the rules in question.

Pitfalls – Changes that should not be made (continued)

- b. Mandatory minimum rates will not prevent waste, fraud and abuse and should not be required.
- One state – Georgia – proposed and actually adopted a \$5 minimum rate rule. However, it has delayed implementation of that rule and has directed its staff to consider all alternatives.
 - No other state requires minimum rates.
 - There is no data to support the theory that having “skin in the game” reduces waste, fraud, and abuse. In fact, available data shows just the opposite: ETCs which do not offer no charge services had among the highest percentages of de-enrolled customers from the 2012 annual re-certification:
 - » AT&T – 47%
 - » Verizon - 44%
 - » Montana wireline telcos – over 50%.(TracFone – the largest provider of no charge Lifeline service – only had to de-enroll 15%)
 - Myth – No charge Lifeline services were created by wireless ETCs. In fact, the concept of no charge Lifeline was developed by the FCC in 2005 as part of its response to Hurricane Katrina. Under the emergency Katrina Lifeline program, qualified displaced Katrina victims were provided with a handset and 300 no charge minutes by participating providers. TracFone was one of those providers and it provided phones and service to nearly 30,000 victims.

Conclusion

- Lifeline is an invaluable federal assistance program which has made access to the public network available to millions of low-income households
- Wireless Lifeline has enhanced the program by bringing the convenience and security of wireless technology to consumers.
- The program should be preserved and politically-driven efforts to destroy it or limit it should be resisted.
- Waste, fraud and abuse of USF resources remains an important goal. Although substantial progress has been made as a result of the Commission's 2012 Lifeline reforms, more can and should be done – as we have suggested.